

DT: May 19 , 2008

TO: ERC Members
GA Members
Coastal Rules Stakeholders



RE: **Will DWQ /EMC Violate “National Shellfish Sanitation Rules”
or Violate “Federal Clean Water Act of 1972” ?**

DWQ / EMC officials say removing bacteria from shellfish waters in order to comply with National Shellfish Sanitation Regulations is a primary objective of the Coastal Rules; however, it appears their proposed Coastal Rules may actually increase the bacteria targeted for reduction .

Vegetated Natural Buffers, that will be required under the rules, will attract wildlife, wildlife will poop , wildlife poop will have fecal coliform bacteria, this bacteria may wash into waters and increase pollution (as it is defined). So, if the State Agency wants to keep the bacteria out of the waters they will have to figure out some way to keep wildlife , sea gulls, ducks, and geese, etc. out of the buffers.

However, that presents another problem. The Federal Clean Water Act (33U.S.C.1252 et seq.) under Title I Declaration of Goals and Policy Sec. 101. (a) (2) states, “..... it is the national goal ... of water quality which provides for the protection and propagation of fish, shellfish, and wildlife ,.....“.

Since the beginning of life on earth, these bacteria have been part of natural food chain nutrients for fish, shellfish and sea grass . So, it seems that removing wildlife will disrupt the natural food chain , starve the oysters, and so, be in violation of the Federal CWA.

We can't have it both ways ,,, OR, maybe the problem is that DWQ/EMC is using archaic tests for pollution developed back in 1900 for untreated waste. Is this valid today for coastal waters ? (See * below.)

It may be that DNA tests could be used that would better protect human health, AND 'protect and propagate fish, shellfish, and wildlife '. (These DNA tests have been in use for some years in other States.)

Perhaps it would be good for the DWQ / EMC to use more up-to-date DNA tests for water quality?

“ Let's have rules that work”
thelandalliance.org

Land Alliance of North Carolina
Bill Price

* Many people don't seem to have much information about pollution or the DSFS tests used to close Shellfish waters.
Here is an overview of the issue.

Div. Shellfish Sanitation takes water samples and counts Fecal Coliform (FC) Bacteria in the sample.

If FC are over 14 parts per mili liter (ppml) , the water is said to be polluted.

What is Fecal Coliform Bacteria? FC are a bacteria found in the stomachs and intestines of all warm blooded animals (w.b.a.) such as sea gulls, pelicans, geese, deer, dogs, cats, cows and humans and helps digest food.

Without FC, we couldn't digest our food, and we and all warm blooded animals would die.

So, we, and all w.b.a., have lots of FC bacteria in us. Obviously, it doesn't harm us or other animals.

Because there is much FC in the digestive tracts of w.b.a's, it is found in the waste from wildlife and humans.

So why is a bacteria that doesn't harm humans or wildlife or sea life called pollution?

Back around 1900 there were outbreaks of typhoid, cholera, and yellow fever in New York City. In those days there was no sewage treatment and raw sewage and storm sewers were combined. Scientists traced the spread of the diseases to eating uncooked shellfish from waters that received the raw sewage. Because it was hazardous to eat shellfish that might be contaminated with typhoid, cholera, or other pathogens in human waste, the Scientists, developed a test and estimated that if FC exceeded 14 ppml there was a probability of the presence of human waste which might be harmful if consumed in uncooked shellfish.

National Shellfish Sanitation rules were made to prohibit selling shellfish from waters having the 14 ppml levels of FC.

Today, discharge of untreated human waste is illegal, and waste is treated by Waste Treatment Plants and Septic Tanks. Obviously, any significant discharges of untreated human waste (such as Failing Septic Tanks), should be found and fixed. (For some reason the DWQ / EMC officials have not proposed rules to find and fix failing septic tanks.)

As indicated, FC bacteria is from ALL Warm Blooded animals and is found in waste of wildlife such as sea gulls, pelicans, geese, deer, etc. This is important because this is a part of the natural food chain that feeds fish, shellfish, and other aquatic wildlife. Also, the nitrogen associated with this, is important to grow sea grass which further acts to enhance aquatic life.

If we reduce wildlife waste and associated nitrogen, we will have reduced sea life.

DNA tests used in other States show little of the FC bacteria in coastal waters today indicate hazards to humans or wildlife. Perhaps we need to be using the current DNA tests in order to better protect human health, AND to help grow aquatic life.